



Volume XLI June 2008

## In This Issue

Page One Letter from the Chairman  
CE Notice  
New Address Info  
Auction Investigator

Page Two Commission Report  
Auto Auction Law

Page Three Auto Auction Law  
(continued)

Page Four Scenes from the Seminar

## Commission Members & Staff

**Kenneth Dreaden, Chairman**  
At-Large Member  
Term: 11/10/2005 – 08/31/2008

**Howard Phillips, Vice Chairman**  
East Tennessee Member  
Term: 09/01/2003 – 08/31/2009

**Bobby Colson, Board Member**  
Middle Tennessee Member  
Term: 08/31/2004 – 08/31/2010

**Marvin Alexander, Board Member**  
West Tennessee Member  
Term: 11/30/2004 – 08/31/2010

**Mary Frances Rudy, Board Member**  
Consumer Member  
Term: 04/25/2007 – 08/31/2010

**Lynn McGill** Administrative Director  
lynn.mcgill@state.tn.us

**Sheila Piper** Administrative Assistant  
sheila.d.piper@state.tn.us

## Mission Statement

The mission of Tennessee Auctioneer Commission is to protect the public and licensees by monitoring the auctioneer profession through licensure and regulation.

State of Tennessee  
Department of Commerce & Insurance  
Tennessee Auctioneer Commission  
710 James Robertson Parkway  
Andrew Johnson Bldg. - 2<sup>nd</sup> Floor  
Nashville, Tennessee 37243

615-741-3600 Fax – 615-741-1245  
www.state.tn.us/commerce/boards/auction

Tennessee Department  
of Commerce and  
Insurance

## From the Chairman

by Kenneth Dreaden, Chairperson

The Auctioneer Commission is busy working to implement the new Public Automobile Auction and Public Automobile Auctioneer licensing laws, which will go into effect January 1, 2009. You can read that law on pages 2-3 of this newsletter. The Commissioners and Commission staff are currently working on developing the license application forms and the educational requirements for these new licenses. At the same time, legal counsel for the Commission is working to draft the necessary rule changes so we can schedule a public rule making hearing. Any resident of the state of Tennessee is given the opportunity to participate in this process.

The Auctioneer Commission met on Monday, June 2, 2008 and discussed a number of the issues and questions which have come up about this new license. We are scheduled to meet again on Monday, July 7, 2008 at 8:30 a.m. Anyone interested in this process is encouraged to attend the Commission meeting.

You will notice in the announcement below, the Commission office is moving to 710 James Robertson Parkway, so be sure to check the website before the July 7<sup>th</sup> meeting for directions to our new meeting location. Lynn McGill and Sheila Piper have been working hard to keep the office operational while they pack up files and records for their upcoming move. I want to thank them for the job they are doing.

## Attention Gallery and (non-auctioneer) Firm owners

Effective April 14, 2008, you are now required to have six (6) hours of approved Continuing Education to renew your firm or gallery license.

The TAC offers three free seminars each year: one in East, Middle and West Tennessee. Our next free seminar will be held in East Tennessee in the fall

## The Facts About Auction Investigators

Years ago the Auctioneer Commission employed their own auction investigator who was compensated out of the Auctioneer Education and Recovery Fund.

Approximately three years ago, the TAC went with the Department of Commerce and Insurance investigator program and no longer utilizes the services of a dedicated auction investigator.

This change has some auctioneers and auction companies under the impression that there is no one investigating auctions and auctioneers. In fact, the TAC now has a pool of twenty trained professional investigators all across the state, ready and able to investigate any auction.

All complaints presented to the TAC offices are forwarded to legal counsel. If an investigation is warranted, the C & I Investigations office is notified and the complaint is investigated.

In fiscal year 2009, the TAC will be reviewing how auctions are investigated and the issue of inspections.

## WE'RE MOVING!

THE TAC OFFICES ARE MOVING  
DOWN THE STREET TO:

710 JAMES ROBERTSON PKWY.  
ANDREW JOHNSON BLDG.  
2<sup>ND</sup> FLOOR  
NASHVILLE, TN 37243

THE MOVE WILL TAKE PLACE IN  
MID-JUNE. STOP BY & SEE US!

OUR PHONE NUMBER WILL  
REMAIN THE SAME, SO CALL US IF  
YOU HAVE ANY QUESTIONS

(615) 741-3600

The Tennessee Auctioneer Commission met on February 4, 2008, April 7, 2008, and May 19, 2008. The minutes of the February and April 2008 meetings are currently available to view online at [www.state.tn.us/commerce/boards/auction](http://www.state.tn.us/commerce/boards/auction). There were no complaints or disciplinary actions ruled upon at either of these meetings. During the February and April meetings, the Commissioners discussed several topics at length:

- ☐ Continuing Education programs,
- ☐ Ongoing questions regarding the Tennessee Apprenticeship, and
- ☐ The Tennessee Automobile Auctioneer Licensing Law.

## Continuing Education Programs

Currently, there are 106 continuing education providers approved by the Tennessee Auctioneer Commission. The discussion initially was generated around the application for approval by All-Star Training, a Texas based distance education provider. Following the February meeting, Commissioner Marvin Alexander reviewed the course materials provided by All-Star which generated some interesting comments, questions, and discussion during the April meeting. As a result, the Commission authorized staff to request all approved continuing education providers submit a list of active and inactive course offerings, as well as provide a course outline and all course materials for one course offering so the Commissioners could review the materials and report back to the board on the content and quality of the course materials. This process is currently underway.

## Tennessee Apprenticeship Requirements

At both the February and April meetings, applicants appeared before the Commission to request a waiver of the two-year apprenticeship. This generated much conversation regarding requests for the apprenticeship waiver which appear before the Commission. While Tennessee maintains many reciprocal licensing agreements with other states, reciprocity is only available to residents of those states with whom Tennessee reciprocates. Once a licensee from another state moves into Tennessee, they are bound by the licensing laws of Tennessee as they apply to Tennessee residents. While there is no legal provision in Tennessee Auctioneer Licensing Law to allow the Commission to waive the apprenticeship period, any applicant for licensure may appear before the Commission to request a review of their application by following some very simple procedures: they must request to be placed on the Agenda, and they should bring copies of their application, any brochures which substantiate their experience, and any other experience information which may be relevant.

## The Tennessee Public Automobile Auctioneer Licensing Law

On March 26, 2008 the Tennessee General Assembly passed the following changes to the Tennessee Code Annotated (TCA) by designating licensing provisions for a Public Automobile Auctioneer and a Public Automobile Auction. Discussion on this Act was brought forth in the April 7<sup>th</sup> TAC meeting, however, it was tabled since the Act had not been signed by the Governor. On April 10, 2008, Governor Phil Bredesen signed this Act into law. In the upcoming months, the TAC will be drafting rules and procedures for these new license provisions. This Act may also be viewed online at <http://state.tn.us/sos/acts/105/pub/pc0724.pdf>

### Public Chapter No. 724 PUBLIC ACTS, 2008

AN ACT to amend Tennessee Code Annotated, Title 55 and Title 62, Chapter 19, relative to certain public auctions.

#### BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 62-19-101, is amended by adding the following language as new, appropriately designated subdivisions:

- (\_) "Public automobile auction" means offering motor vehicles for sale to the highest bidder where buyers are members of the public by any motor vehicle dealer licensed to sell used motor vehicles, and which dealer is licensed as a public automobile auctioneer by the Tennessee Auctioneer Commission; provided, that no public automobile auction as herein defined shall otherwise limit the auctioning of used motor vehicles exclusively to licensed motor vehicle dealers or their duly authorized agents;
- (\_) "Public automobile auctioneer" means any individual who, for a fee, commission, or any other valuable consideration, or with the intention or expectation of receiving the same, by the means or process of auction or sale at auction, offers, negotiates, or attempts to negotiate a listing contract, sale, purchase or exchange of goods, including motor vehicles;

SECTION 2. Tennessee Code Annotated, Section 62-19-102(a), is amended by adding the following language as a new subdivision:

- (3) Act as, or advertise or represent to be a public automobile auctioneer unless such person is duly licensed as a public automobile auctioneer, and as a motor vehicle dealer under the provisions of Title 55, Chapter 17, Part 1.

SECTION 3. Tennessee Code Annotated, Section 62-19-111, is amended by adding the following language as a new subsection:

(s) Any individual who desires a license as public automobile auctioneer shall submit an application to the commission on the prescribed form. The application shall be accompanied by a nonrefundable examination fee as set by the commission, and satisfactory proof that the applicant has:

- (1) Reached at least twenty-one (21) years of age;
- (2) Served as an auctioneer for a period of two (2) years; and
- (3) Successfully completed, in addition to the education required by subdivision (a)(2), thirty (30) hours of more rigorous classroom instruction in automobile auctioneering approved by the commission.

**SECTION 4.** Tennessee Code Annotated, Title 62, Chapter 19, Part 1, is amended by adding the following language as a new, appropriately designated section: § 62-19-128.

(a) Public automobile auctions shall be licensed and regulated by the Tennessee Auctioneer Commission and the Tennessee Motor Vehicle Commission when engaged in the sale of motor vehicles.

(b) The following are minimum requirements for licensed public automobile auctions:

(1) The public automobile auction shall have a letter of compliance with local ordinances from the local zoning authority;

(2) The public automobile auction shall have garage keepers legal liability insurance in an amount not less than five hundred thousand dollars (\$500,000);

(3) The public automobile auction shall have a surety bond of fifty thousand dollars (\$50,000) issued by a licensed bonding company;

(4) The public automobile auction shall have a compiled financial statement prepared in accordance with generally accepted accounting principles by a certified public accountant or public accountant dated not earlier than twelve (12) months prior to the date of the application and shall furnish a copy of the same to the commission along with any changes to the statement;

(5) The public automobile auction shall have a minimum net worth of at least one hundred thousand dollars (\$100,000);

(6) The public automobile auction shall have a business telephone in the auction company name. For purposes of this subdivision (b)(6), cellular telephones are not acceptable;

(7) All signs shall be visible, and a permanent professional business sign shall be installed and have letters which are at least eight inches (8") tall;

(8) The public automobile auction shall hold a current business tax license as required by local applicable law;

(9) The public automobile auctioneer shall obtain and have displayed on its premises a valid motor vehicle dealer license from the Tennessee Motor Vehicle Commission; and

(10) The public automobile auction shall obtain and have displayed on its premises a valid license from the Tennessee Auctioneer Commission.

(c) Prior to a motor vehicle being subject to a public automobile auction, the public automobile auctioneer shall verify that such motor vehicle has a clean and unencumbered title, by obtaining a valid motor vehicle title history from the Department of Revenue or if such motor vehicle is registered in a state other than Tennessee, the appropriate titling agency in such other state.

(d) All public automobile auctions must take place at the established place of business listed on the motor vehicle dealer license.

(e) The public automobile auction shall not sell new or unused motor vehicles or vehicles with a Manufacturer's Statement of Origin.

(f) The public automobile auctioneer shall take possession of and retain title to each motor vehicle offered for sale at the auction. If the sale is finalized on a motor vehicle, the owner of the vehicle shall sign the title over to the public automobile auctioneer who shall then sign the title over to and deliver the title to the buyer on the date of the sale. If a sale of the vehicle is not made, then the unsigned title shall be returned to the owner of the vehicle who offered the vehicle for sale at the auction. At all times, the public automobile auction shall be deemed the seller of the motor vehicle with the same duties and responsibilities as other licensed motor vehicle dealers.

**SECTION 5.** Tennessee Code Annotated, Section 55-17-102, is amended by adding the following language as new, appropriately designated subdivisions:

(\_) "Public automobile auction" means offering motor vehicles for sale to the highest bidder where buyers are members of the public by any motor vehicle dealer licensed to sell used motor vehicles, and which dealer is licensed as a public automobile auctioneer by the Tennessee Auctioneer Commission; provided, that no public automobile auction as herein defined shall otherwise limit the auctioning of used motor vehicles exclusively to licensed motor vehicle dealers or their duly authorized agents;

(\_) "Public automobile auctioneer" means any individual who, for a fee, commission, or any other valuable consideration, or with the intention or expectation of receiving the same, by the means or process of auction or sale at auction, offers, negotiates, or attempts to negotiate a listing contract, sale, purchase or exchange of goods, including motor vehicles;

**SECTION 6.** Tennessee Code Annotated, Section 55-17-109, is amended by adding the following as a new subsection thereto:

(d) Public automobile auctions shall be licensed and regulated by the Tennessee Auctioneer Commission and the Tennessee Motor Vehicle Commission when engaged in the sale of motor vehicles.

**SECTION 7.** Tennessee Code Annotated, Section 55-17-114(b)(1), is amended by adding the following as new subdivisions thereto:

(P) Prior to a motor vehicle being subject to a public automobile auction, the public automobile auctioneer shall verify that such motor vehicle has a clean and unencumbered title, by obtaining a valid motor vehicle title history from the Department of Revenue or if such motor vehicle is registered in a state other than Tennessee, the appropriate titling agency in such other state.

(Q) All public automobile auctions must take place at the established place of business listed on the motor vehicle dealer license.

(R) The public automobile auction shall not sell new or unused motor vehicles or vehicles with a Manufacturer's Statement of Origin.

(S) The public automobile auctioneer shall take possession of and retain title to each motor vehicle offered for sale at the auction. If the sale is finalized on a motor vehicle, the owner of the vehicle shall sign the title over to the public automobile auctioneer who shall then sign the title over to and deliver the title to the buyer on the date of the sale. If a sale of the vehicle is not made, then the unsigned title shall be returned to the owner of the vehicle who offered the vehicle for sale at the auction. At all times, the public automobile auction shall be deemed the seller of the motor vehicle with the same duties and responsibilities as other licensed motor vehicle dealers.

**SECTION 8.** The Tennessee Auctioneer Commission is authorized to promulgate rules and regulations to effectuate the purposes of this act. All such rules and regulations shall be promulgated in accordance with the provisions of Tennessee Code Annotated, Title 4, Chapter 5.

**SECTION 9.** For the purpose of promulgating rules, this act shall take effect upon becoming law, the public welfare requiring it. For all other purposes, this act shall take effect January 1, 2009, the public welfare requiring it.

**PASSED: March 26, 2008**

**APPROVED this 10th day of April 2008**

**Public Chapter No. 724 PUBLIC ACTS, 2008**

"The Tennessee Department of Commerce and Insurance is committed to principals of equal opportunity, equal access, and affirmative action." Contact the EEO Corordinator or ADA Coordinator at 615-741-2177 (TDD).

State of Tennessee  
Department of Commerce and Insurance  
Tennessee Auctioneer Commission  
710 James Robertson Parkway  
Andrew Johnson Bldg. – 2<sup>nd</sup> Floor  
Nashville, Tennessee 37243

FIRST-CLASS MAIL  
AUTO  
US POSTAGE PAID  
PULASKI TN  
PERMIT NO. 955

Telephone 615-741-3600 Fax 615-741-1245

[www.state.tn.us/commerce/boards/auction](http://www.state.tn.us/commerce/boards/auction)

DEPARTMENT OF COMMERCE AND INSURANCE AUTHORIZATION No. 335170, Revised 08/06. This public document was promulgated for 3500 copies per issue, at a cost of 37 cents per copy, paid by the Tennessee Auctioneer Commission Education and Recovery Fund.



## Scenes from the Seminar

*With thanks to our speakers and our participants*



Speaker Greg Sandlin takes a break from his discussion of Radon



Students look on during Sandlin's presentation (top) and applauds a point made by David Hart



David Hart makes a point about the importance of education